

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

In re:  
**THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,**  
as representative of  
**HTA OF PUERTO RICO, *et al.*,**  
Debtors.<sup>1</sup>

PROMESA  
Title III  
No. 17 BK 3283-LTS  
(Jointly Administered)

**This filing relates to the  
Commonwealth.**

**REPLY OF THE COMMONWEALTH OF PUERTO RICO TO  
RESPONSE FILED BY PATRICIA MOSCOSO TO SEVENTY-THIRD  
OMNIBUS OBJECTION (SUBSTANTIVE) TO BONDHOLDER CLAIMS  
ASSERTING AMOUNTS FOR WHICH THE COMMONWEALTH IS NOT LIABLE**

The Commonwealth of Puerto Rico (the “Commonwealth”), by and through the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the representative of the Commonwealth pursuant to Section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),<sup>2</sup> files this reply (the “Reply”) to the *Response of Bondholder Patricia Moscoso to Seventy-Third Omnibus Objection (Substantive) of the Commonwealth of Puerto Rico to Bondholders Claims Asserting Amounts for which the Commonwealth Is Not Liable* [ECF No. 8855] (the “Response”), filed by claimant Patricia

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<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”, and together with the Commonwealth, COFINA, HTA, ERS, and PREPA, the “Debtors”) (Bankruptcy Case No. 19-BK-5532-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

<sup>2</sup> PROMESA is codified at 48 U.S.C. §§ 2101-2241.  
DRAFT Reply to Moscoso Response to 73rd Omnibus Objection; 1

Moscoso (the “Claimant”) to the *Seventy-Third Omnibus Objection (Substantive) of the Commonwealth of Puerto Rico to Bondholder Claims Asserting Amounts for which the Commonwealth Is Not Liable* [ECF No. 8699] (the “Seventy-Third Omnibus Objection”). In support of this Reply, the Commonwealth respectfully represents as follows:

1. On September 12, 2019, the Commonwealth filed the Seventy-Third Omnibus Objection seeking to disallow certain proofs of claim listed on Exhibit A thereto, each of which purport to be based on bonds, and each of which is based in full or in part on amounts for which the Commonwealth is not liable because the claims assert liability based on: (a) ownership interests in bonds issued by the Puerto Rico Sales Tax Financing Corporation (“COFINA”); (b) ownership interests in bonds issued by the Government Development Bank of Puerto Rico (“GDB”); and/or (c) investments in mutual funds, which in turn may have invested in bonds issued by the Commonwealth. The Commonwealth further seeks to disallow some of the claims listed on Exhibit A thereto for the additional reason that other parts of the claims are duplicative in part of one or more master proofs of claim filed against the Commonwealth on behalf of the holders of certain bonds, and/or were partially asserted against the incorrect debtor.

2. Any party who disputed the Seventy-Third Omnibus Objection was required to file a response by 4:00 p.m. (Atlantic Standard Time) on October 15, 2019, in accordance with the Court-approved notice attached to the Seventy-Third Omnibus Objection as Exhibit C, which was served in English and Spanish on the individual creditors subject to the Omnibus Objections, the U.S. Trustee, and the Master Service List (as defined in the *Order Further Amending Case Management Procedures* [ECF No. 8027]). See Certificate of Service [ECF No. 8718].

3. On October 15, 2019, Claimant filed the Response. Therein, Claimant does not dispute that Claimant's proof of claim, which was filed against the Commonwealth on May 25, 2018, and logged by Prime Clerk as Proof of Claim No. 31833 (the "Claim"), sought to assert, in part, liability based on alleged ownership of bonds issued by the Puerto Rico Sales Tax Financing Corporation ("COFINA").

4. Rather, in the Response, Claimant states that her claim "is not to be understood, in any manner, as released and/or discharged by" either the Settlement Order, the Plan, or the Amended Confirmation Order.<sup>3</sup> Response at 3 (emphasis original). As support for that assertion, Claimant states that the Settlement Order solely addressed "the rights to tax revenues between the Commonwealth and COFINA." *Id.*

5. As explained in the Seventy-Third Omnibus Objection, the Settlement Order, the Plan, and the Amended Confirmation Order, taken together, settle, compromise, discharge, and release all claims against the Commonwealth arising from or relating to the relationship between the Commonwealth and COFINA. Pursuant to paragraph 55 of the Settlement Order, all claims against the Commonwealth arising from or relating to the relationship of the Commonwealth and COFINA have been released. And, pursuant to paragraph 29(f) of the Amended Confirmation Order, the Commonwealth was "released from all liability from all Claims . . . held by any Creditor . . . arising from or relating to the relationship of the Commonwealth and COFINA . . ." The Plan defined the term "Claim" to include "[a]ny right to payment or performance. . ." Plan § 1.53. Furthermore, the Amended Confirmation Order states that it is "binding upon . . . all

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<sup>3</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Seventy-Third Omnibus Objection.

Creditors of COFINA and the Commonwealth . . .,” including bondholders such as Claimant. Order at 10-11.

6. Claimant seeks to assert a Claim against the Commonwealth arising from Claimant’s ownership of bonds issued by COFINA. In so doing, Claimant seeks to assert a right to payment from the Commonwealth arising from its relationship to COFINA. As described above, however, the Amended Confirmation Order clearly releases the Commonwealth from any liabilities arising from that relationship. Moreover, that release is binding on all creditors of the Commonwealth, including Claimant. As such, the Commonwealth is not liable for the amounts asserted in Claimant’s Claim.

7. Accordingly, the Commonwealth respectfully requests that the Court grant the Seventy-Third Omnibus Objection and disallow the Claim.

Dated: October 23, 2019  
San Juan, Puerto Rico

Respectfully submitted,

/s/ Hermann D. Bauer

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 23, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification to all counsel of record, and all CM/ECF participants in the case.

*/s/ Hermann D. Bauer*

Hermann D. Bauer